

DEC 19 2001

FILED

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE.

PETITIONER,

VS.

DARYL MCNIEL,

RESPONDENT.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
RECOMMENDED ORDER
AND ORDER**

CAUSE NO. A-1454

FINDINGS OF FACT

1. Respondent is a licensed resident Nebraska insurance agent whose current registered address with the Department is 521 Arthur Street, Holdrege, Nebraska 68949-2416 and registered telephone number is 402/480-4220.
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers and brokers.

3. On or about November 21, 2001, the Petition and Notice of Hearing were served upon Respondent by mailing the same to his address of record by certified mail, return receipt requested. The Petition and Notice of Hearing with the return receipt were returned marked "REFUSED" to the Nebraska Department of Insurance on or about November 26, 2001 as evidenced by Exhibit 2.

4. On September 12, 2001, Respondent paid for his producer license renewal with Check #1046 in the amount of \$40.00 which was later returned to the Department as an insufficient funds check marked "NSF." Exhibit 3.

5. On or about October 9, 2001, Beverly Creager, the Administrator of the Licensing Division of the Department sent a written notification to Respondent by certified mail, return receipt requested, that his check had been returned unpaid. Said letter was returned to the Licensing Division on or about October 25, 2001 marked "UNCLAIMED." Exhibit 3.

6. Department staff called Respondent at his registered telephone number of 402/480-4220. No one answered the telephone and there was no way to leave a voicemail message for Respondent to return the call. Exhibit 2.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

3. Respondent violated Neb. Rev. Stat. §44-4064(1)(a) and 44-4059(1)(h).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's insurance producer's license be suspended until Respondent pays, by cashier's check, the \$40.00 renewal fee, \$15.00 administrative fee, and a \$500 administrative fine for a total of \$555.00 within thirty days after the date the Director of Insurance signs this Order.

Dated this 18th day of December, 2001.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



HEARING OFFICER

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of the State of Nebraska Department of Insurance v. Daryl McNiel, Cause No.: A-1454.

Dated this 19th day of December, 2001.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon Respondent by mailing a copy to Respondent at 521 Arthur Street, Holdrege, Nebraska 68949 by certified mail, return receipt requested, on this 19th day of December, 2001.

Stacey M. Bullywell